

Appl. No. 10/618,806
Amdt. dated July 5, 2006
Reply to Office Action mailed April 5, 2006

REMARKS

The above-referenced application has been reviewed in light of the Office Action mailed April 5, 2006. It is respectfully submitted that the claims present in the application are fully supported by the specification, introduce no new subject matter, and are patentable over the prior art. Prompt and favorable consideration of the claims is respectfully requested.

In the Office Action, claims 1-18 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over U.S. Patent No. 5,733,293 to Scirica et al. (the '293 patent) in view of U.S. Patent No. 4,928,830 to Brewer (the '830 patent). This rejection is respectfully traversed.

The '293 patent does not teach or fairly suggest a suture package wherein a cover is connected to a base via a hinge as recited in the present claims. In particular, Claim 1 recites the "cover portion being integrally *connected* to the base portion *via a hinge*," Claim 9 recites "a cover *connected* to the base portion *via a hinge*," and Claim 17 recites "a molded cover portion having a hinge-side edge and a free edge, the cover portion being integrally *connected* to the base portion along the hinge-side edges." Rather than disclose or suggest a cover attached to a base via a hinge, the '293 patent teaches away from connecting the cover to the base using a hinge by disclosing that the top and bottom plates are detachably affixed to each other using tabs. Specifically, the '293 patent (Column 5, lines 17-19) discloses that the "bottom plate 68 is detachably *affixed* to top plate 66 by means of flexible tabs 76 formed along an edge 78 of the top plate 66." (*Emphasis added.*) Thus, the '293 patent does not disclose or fairly suggest permanently attaching the top and bottom plates of a suture package via a hinge. The '830 patent discloses a suction supply kit having a hinged tray for holding individually packaged supplies. However, as discussed above, the '293 patent teaches away from the cover portion being connected to the base portion using a hinge.

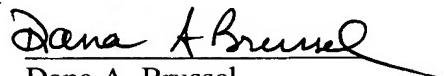
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The Office Action failed to establish that there is a suggestion or motivation to modify or combine the cited references in a way that results in the claimed device. There would be no need to incorporate a hinged cover on the suture retainer of the '293 patent because the retainer is intended to be disposable. The Office Action asserted that the '293 patent discloses top and bottom plates that are detachably affixed to one another using tabs and argued that it would have been obvious to "attach the base and cover of Scirica by a living hinge, as suggested by Brewer." "The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggest the desirability of the combination."

M.P.E.P. § 2143.01, citing *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990)(emphasis in original). Therefore, there would be no suggestion to combine the '293 and '830 patents.

In view of the foregoing remarks, it is respectfully submitted that all claims pending in the application, namely claims 1-18, are in condition for allowance. Should the Examiner desire a telephonic interview to resolve any outstanding matters, the Examiner is sincerely invited to contact the undersigned at (631) 501-5713.

Respectfully submitted,


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